

IN THE UNITED STATES DISTRICT COURT
MIDDLE DISTRICT OF TENNESSEE
NASHVILLE DIVISION

NORMA PANTOJA and)	
JANETHA ADRIANA BARRAGA CRUZ)	
Plaintiffs)	
)	
v.)	Case No. 3:17-cv-0675
)	
JEAN PEREZ, JESUS ENRIQUE BOLAÑOS)	
RANGEL, EMILIO ESTEFFAN RODRIGUEZ,)	
GESTORIA BOLAÑOS & ASOCIADOS,)	
GRUPO ADUANAL LATINO, LLC,)	
Defendants)	

To: The Honorable Waverly D. Crenshaw, Jr., Chief District Judge

REPORT AND RECOMMENDATION

This civil action was commenced by the filing of a complaint on April 4, 2017 (Docket No. 4), in which Plaintiffs named the following Defendants: Jean Perez (aka Jeannette Perez Bolaños aka Jean Perez Delgado aka Jean Rodriguez); Jesus Enrique Bolaños Rangel (aka Kike Ranger); Emilio Esteffan Rodriguez; Gestoria Bolaños & Asociados; and, Grupo Aduanal Latino, LLC. Nothing in Plaintiffs’ complaint indicates that any of the named Defendants are foreign defendants. Plaintiffs have filed only one return of service of summons, on June 2, 2017 (Docket No. 8), indicating service on Defendant Jean Perez by certified mail delivered on April 8, 2017.

Under the plain language of Rule 4(m) of the Federal Rules of Civil Procedure, “[i]f a defendant is not served within 90 days after the complaint is filed, the court—on motion or on its own after notice to the plaintiff—must dismiss the action without prejudice against that defendant or order that service be made within a specified time.” The 90th day after the April 4, 2017 complaint filing date in this case was July 3, 2017. There is nothing in the record indicating that


any Defendant other than Defendant Jean Perez was ever served with the summons and complaint, much less by July 3, 2017.

Plaintiffs were given notice by order entered on July 31, 2017 (Docket No. 10) that, unless returns of service of summons on all of the other Defendants were filed by August 14, 2017, showing that service was timely effected, a recommendation for dismissal of this action as to any unserved Defendants would be made. No such returns of service were filed by August 14, 2017.

Because Plaintiffs have failed to demonstrate compliance with Fed. R. Civ. P. 4(m), it is respectfully recommended that Plaintiffs claims against Defendants Jesus Enrique Bolaños Rangel (aka Kike Ranger); Emilio Esteffan Rodriguez; Gestoria Bolaños & Asociados, Grupo Aduanal Latino, LLC be dismissed without prejudice, as provided for in that rule. This recommendation does not include Plaintiffs' claims against Defendant Jean Perez, as Defendant Perez was at least ostensibly served, according to the return of service filed by Plaintiffs on June 2, 2017.

ANY OBJECTIONS to this Report and Recommendation must be filed with the Clerk of Court within fourteen (14) days of service of this Report and Recommendation and must state with particularity the specific portions of this Report and Recommendation to which objection is made. Failure to file written objections within the specified time can be deemed a waiver of the right to appeal the District Court's Order regarding the Report and Recommendation. *See Thomas v. Arn*, 474 U.S. 140, 106 S.Ct. 466, 88 L.Ed.2d 435 (1985); *United States v. Walters*, 638 F.2d 947 (6th Cir. 1981).

Respectfully submitted,


BARBARA D. HOLMES
United States Magistrate Judge